

SECTION 15.5 REASONABLE ACCOMMODATION

(Added by Ord. No. 3474, effective 7-30-2015)

PURPOSE

Addition of Reasonable Accommodation Ordinance as Section 15.5, to read

SECTION 15.5: REASONABLE ACCOMMODATION

It is the policy of the jurisdiction, pursuant to the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act (hereafter "fair housing laws"), to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities. This ordinance establishes a procedure for making requests for reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures of the jurisdiction to comply fully with the intent and purpose of fair housing laws.

FINDINGS

The Board of Supervisors of Tulare County finds:

The federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act impose an affirmative duty on local governments to make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with disabilities an equal opportunity to housing;

- A. The Housing Element of the jurisdiction must identify and develop a plan for removing governmental constraints to housing for individuals with disabilities including local land use and zoning constraints or providing reasonable accommodation;
- B. The Attorney General of the State of California has recommended that cities and counties implement fair housing reasonable accommodation procedures for making land use and zoning determinations concerning individuals with disabilities to further the development of housing for individuals with disabilities;
- C. A fair housing reasonable accommodation procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief in the application of land use, zoning and building regulations, policies, practices and procedures will further the jurisdiction's compliance with federal and state fair housing laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities.

APPLICABILITY

Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.

An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment.

A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.

NOTICE TO THE PUBLIC OF AVAILABILITY OF ACCOMMODATION PROCESS

Notice of the availability of reasonable accommodation shall be prominently displayed at public information counters in the planning, zoning and building departments, advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall be available to the public in the Planning and Building and Safety departments.

REQUESTING REASONABLE ACCOMMODATION

- A. In order to make housing available to an individual with a disability, any eligible person may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures.
- B. Requests for reasonable accommodation shall be in writing and provide the following information:
 - (1) Name and address of the individual(s) requesting reasonable accommodation;
 - (2) Name and address of the property owner(s);
 - (3) Address of the property for which accommodation is requested;
 - (4) Description of the requested accommodation and the regulation(s), policy or procedure for which accommodation is sought; and
 - (5) Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.
- C. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.
- E. If an individual needs assistance in making the request for reasonable accommodation, the jurisdiction will provide assistance to ensure that the process is accessible.

REVIEWING AUTHORITY

- A. Requests for reasonable accommodation shall be reviewed for conformance to the required findings by the Planning Commission.
- B. The reviewing authority shall issue a written decision on a request for reasonable

accommodation within thirty (30) days of the date of the application and may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings.

- C. If necessary to reach a determination on the request for reasonable accommodation, the reviewing authority may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.

REQUIRED FINDINGS

The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors:

- (1) Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws;
- (2) Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;
- (3) Whether the requested accommodation would impose an undue financial or administrative burden on the jurisdiction and;
- (4) Whether the requested accommodation would require a fundamental alteration in the nature of the jurisdiction's land use and zoning or building program.

WRITTEN DECISION ON THE REQUEST FOR REASONABLE ACCOMMODATION

- A. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the review of the required findings. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.
- B. The written decision of the reviewing authority shall be final unless an applicant appeals it to the jurisdiction's planning commission.
- C. If the reviewing authority fails to render a written decision on the request for reasonable accommodation within the thirty (30) day time period, the request shall be deemed granted.
- D. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

APPEALS

- A. Within thirty (30) days of the date of the Planning Commission's written decision, an applicant may appeal an adverse decision. Appeals from the adverse decision shall be made in writing.
- B. If an individual needs assistance in filing an appeal on an adverse decision, the jurisdiction will provide assistance to ensure that the appeals process is accessible.
- C. All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the

- privacy rights of the applicant and shall not be made available for public inspection.
- D. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.